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2 **UNITED STATES DISTRICT COURT**
3 **DISTRICT OF NEVADA**
4

5 JAMES MICHAEL BIELA,
6 Petitioner,
7 v.
8 WILLIAM GITTERE, *et al.*,
9 Respondents.

Case No. 3:20-cv-00026-GMN-WGC

ORDER

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11 This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C.
12 § 2254, by James Michael Biela, a Nevada prisoner sentenced to death. Biela filed a
13 *pro se* habeas corpus petition (ECF No. 2) on January 15, 2020.

14 Biela paid the \$5 filing fee for this action, but also filed an application for leave to
15 proceed *in forma pauperis* (ECF No. 1). It appears from the information provided in
16 that application that there is good cause to grant Biela *in forma pauperis* status for this
17 capital habeas corpus action. The Court will grant Biela's application to proceed
18 *in forma pauperis* for all purposes other than payment of the filing fee.

19 In addition, Biela filed a motion for appointment of counsel (ECF No. 4). The
20 information provided in Biela's application for leave to proceed *in forma pauperis* shows
21 that he lacks the resources necessary to employ counsel for this capital habeas corpus
22 action. Therefore, pursuant to 18 U.S.C. § 3599, and in the interests of justice, the Court
23 will appoint the Federal Public Defender for the District of Nevada to represent Biela.

1 If the Federal Public Defender is unable to represent Biela, due to a conflict of interest
2 or other reason, then alternate counsel will be appointed. Biela's appointed counsel will
3 represent him in all subsequent proceedings, pursuant to 18 U.S.C. § 3599(e), unless
4 and until allowed to withdraw.

5 The Court has examined Biela's petition for writ of habeas corpus pursuant to
6 Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts
7 and will direct the Clerk of the Court to serve the petition upon the respondents.

8 **IT IS THEREFORE ORDERED** that Petitioner's Application to Proceed *in Forma*
9 *Pauperis* (ECF No. 1) is **GRANTED IN PART AND DENIED IN PART**. Petitioner is
10 granted leave of court to proceed *in forma pauperis*. However, payment of the \$5 filing
11 fee for this action is not waived (Petitioner has paid the filing fee).


12 **IT IS FURTHER ORDERED** that Petitioner's Motion for Appointment of Counsel
13 (ECF No. 4) is **GRANTED**. The Federal Public Defender for the District of Nevada is
14 appointed to represent the petitioner in this action. The Federal Public Defender will
15 have 30 days from the date of entry of this order to file a notice of appearance as
16 counsel for Petitioner or to file a notice of inability to represent Petitioner in these
17 proceedings.

18 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to
19 electronically serve a copy of this order on the Federal Public Defender for the District of
20 Nevada.

21 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to add Aaron
22 Ford, Attorney General of the State of Nevada, as counsel for Respondents.
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1 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to
2 electronically serve upon Respondents a copy of the habeas corpus petition (ECF
3 No. 2) and a copy of this order. Respondents' counsel will have 30 days from the date
4 of this order to file a notice of appearance, but Respondents need no further action in
5 this case unless and until ordered to do so.

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7 DATED THIS 16 day of January, 2020.

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11 GLORIA M. NAVARRO,
12 UNITED STATES DISTRICT JUDGE
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